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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,880	10/11/2001	Margaret Motamed	EFIM0070C	2558

31408 7590 03/28/2005

JAMES TROSINO  
268 Bush Street #3434  
SAN FRANCISCO, CA 94104

EXAMINER
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ROGERS, SCOTT A

ART UNIT	PAPER NUMBER
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2626

DATE MAILED: 03/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/976,880

Applicant(s)

MOTAMED, MARGARET

Examiner

Scott A Rogers

Art Unit

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's amendment and arguments filed 22 September 2004, with respect to the rejection(s) of claim(s) 1 and 11 under 35 U.S.C. 102(b) as being anticipated by Miyakawa, have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of prior art found during a further search as set forth below.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe (US 4831458) in view of Lehman et al (US 5237172).

Referring to claim 1, Watanabe discloses a method and apparatus for calibrating a scanner 2 using a calibration target 28 fixed to a scanning surface of said scanner and selectively calibrating said scanner with said calibration target in a adjustment or calibration mode (see abstract). While Watanabe teaches selectively calibrating the scanner, he does not disclose calibration during a normal scan operation.

Lehman et al discloses a method and apparatus for automatically calibrating a scanner with reference bands (the calibration target) before each scan as well as during a given or normal scan (see abstract and at least col. 2, line 48 to col. 3, line 24).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to have modified Watanabe in view of Lehman et al to have included a feature whereby calibration of the scanner may be selected during a normal scan operation in order to maintain calibration throughout the scan (see Lehman et al - col. 2, lines 1-2).

Referring to claims 2 and 12, Watanabe discloses a platen (glass table 4) and calibration target (reference plate 28) comprising a width of approximately or equal to a length of or a width of said platen.

Claim 3 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Watanabe & Lehman et al, as applied to claims 1 and 11 above, and further in view of Falk (6141120).

Referring to claims 3 and 13, the combination of Watanabe & Lehman et al teach the scanning calibration method and apparatus of claims 1 and 11, but fail to expressly disclose that "said calibration target comprises a Kodak Gray Strip, an IT8 target, or an equivalent manufactured calibration target".

However, Falk shows in figure 6, a diagram of a gray scale test strip (600), a standard test strip such as Kodak test strip comprising a plurality of gray scale patches (601), which reads on the above quoted limitation in claims 3 and 13 (see col. 5, lines 66 through col. 6, lines 5).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to have modified the combination of Watanabe & Lehman et al to employ Falk's Kodak test strip (600) because the standard test strip is scanned simultaneous with the scanning of calibration image (500) so that the test strip data (216) and the scanned calibration image data (215) are stored in the same data structure (218), given the express suggestion of Falk (see col. 6, lines 13-18).

Claims 4-5 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Watanabe & Lehman et al, as applied to claims 1 and 11 above, and further in view of well known prior art.

Referring to claims 4-5 and 14-15, the combination of Watanabe & Lehman et al teach the scanning calibration method and apparatus in claim 1 and 11, but fail to expressly disclose that "the calibration target comprises a photograph on photographic paper" or that "the calibration target strip comprises a dye sublimation print on photographic paper or paper equivalent to photographic".

However, Official Notice is taken that the formation of calibration targets with a printer is well known in the prior art, and printers such as photographic printers and dye sublimation printers are also well known in the prior art.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to have modified the combination of Watanabe & Lehman et al to have formed the calibration targets as recited in the above quoted claim limitations using known types of printers in order to easily produce high quality calibration targets

using off the shelf printer technology and allowing easy change or replacement of the calibration targets for the desired calibration result.

Claims 6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Watanabe & Lehman et al, as applied to claim 1 and 11 above, and further in view of Horowitz et al (US 4,525,071) and Gray et al (US 6,028,681).

Referring to claims 6 and 16, the combination of Watanabe & Lehman et al teach the scanning calibration method and apparatus of claims 1 and 11, but fail to expressly disclose that "said calibration target comprises a plastic material".

However, Horowitz teaches attaching a plastic coated bar code label (356), as depicted in figure 4, to a storage bin (4), which reads on "said calibration target comprises a plastic material" (see col. 5, lines 61-67).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to have modified the combination of Watanabe & Lehman et al in view of Horowitz to have employed a calibration target made of plastic material because use of bar code labels or calibration targets coated with plastic material allows for maximum durability, given the express suggestion of Horowitz (see col. 7, lines 39-41).

Horowitz however, does not expressly disclose "said plastic material having an adhering surface and a covering over said adhering surface such that the adhering surface allows the plastic material to adhere to part of the scanner when the covering is removed from the adhering surface".

However, Gray, as shown in figure 4, depicts a fragmentary perspective of a scanner with an adhesively attachable light monitor window tab, which reads on "said plastic material having an adhering surface and a covering over said adhering surface such that the adhering surface allows the plastic material to adhere to part of the scanner" (see col. 3, lines 3-6; col. 8, lines 55-67 through col. 9, lines 1-35). Further, Gray teaches that the cover (190) is coated on its side facing the under surfaces (181; 184) with a layer of weak adhesive bond, such that the protective cover (190) can be easily removed during the assembly of the light window tab (140) to the top of the carriage assembly (122), which reads on "when the covering is removed from the adhering surface" (see col. 9, lines 8-13).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to have modified the combination of Watanabe, Lehman et al, & Horowitz, (i.e. scanning calibration using a plastic coated calibration target) with Gray's adhesive light window tab (140) because the use of an adhesive light window tab (140) compensates for problems associated with a painted strip, given the express suggestion of Gray, (col. 2, line 10).

Claims 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Watanabe & Lehman et al, as applied to claim 1 and 11 above, in view of Horowitz et al & Gray et al, as applied to claim 6 and 16 above, and further in view of well known prior art.

Referring to claims 7 and 17, please refer to the corresponding rejection in claim 6 and 16, and further note that dye sublimation printing is well known in the prior art.

Therefore, at the time the invention was made, it would have been obvious to one of ordinary skill in the art to have modified the combination of Watanabe, Lehman et al, Horowitz et al & Gray et al, to have formed a dye sublimation print onto the plastic material using a known dye sublimation printer in order to easily produce high quality calibration targets using off the shelf printer technology and allowing easy change or replacement of the calibration targets for the desired calibration result.

Claims 8 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Watanabe & Lehman et al, as applied to claim 1 and 11 above, and further in view of Horowitz et al.

Referring to claims 8 and 18, the combination of Watanabe & Lehman et al teach the scanning calibration method and apparatus of claims 1 and 11, but fail to expressly disclose "providing a calibration target having a protective coating"

However, Horowitz teaches of attaching a plastic coated bar code label (356), as depicted in figure 4, to a storage bin (4), which reads on "providing a calibration target having a protective coating" (see col. 5, lines 61-67).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to have modified the combination of Watanabe & Lehman et al in view of Horowitz to have provided a calibration target having a protective coating because use of bar code labels or calibration targets coated with plastic material allows for maximum durability, given the express suggestion of Horowitz (see col. 7, lines 39-41).



Claims 9 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Watanabe & Lehman et al, as applied to claim 1 and 11 above, and further in view of Gray et al.

Referring to claims 9 and 19, the combination of Watanabe & Lehman et al teach the scanning calibration method and apparatus of claims 1 and 11, but fail to expressly disclose "the calibration target comprises decal paper".

However, Gray teaches of a tab (140) attached to the surface (181) using the adhesive material (188), which reads on "the calibration target comprises a decal paper" (see col. 8, line 65 through col. 9, line 1).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to have modified the combination of Watanabe & Lehman et al in view of in view of Gray's decal paper because use of decal paper compensates for problems associated with a painted strip, given the express suggestion of Gray (col. 2, line 10).

Claims 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Watanabe & Lehman et al, as applied to claim 1 and 11 above, and further in view of Horowitz et al and well known prior art.

Referring to claim 10, the combination of Watanabe & Lehman et al teach the scanning calibration method and apparatus of claims 1 and 11, but fail to expressly disclose "a plastic non-reflective sleeve located proximate to a scanning surface for fixedly holding said calibration target in said sleeve".

Art Unit: 2626

However, Watanabe teaches fixedly holding calibration target 28 located proximate to a scanning surface, Horowitz teaches attaching a plastic coated bar code label 356, and the use of clear plastic sleeves to hold labels and the like is well known in the art.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to have modified the combination of Watanabe & Lehman et al in view of Horowitz and the well known prior art to have employed a plastic, non-reflective sleeve to fixedly hold a calibration target located proximate to a scanning surface because the sleeve allows easy change or replacement of the calibration target and the plastic material allows for maximum durability (see Horowitz col. 7, lines 39-41).

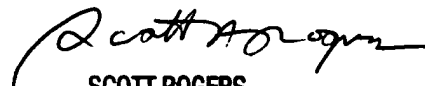
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott A Rogers whose telephone number is 703-305-4726. The examiner can normally be reached on Monday & Wednesday 6:00am-6:00pm and Tuesday & Thursday 6:00am-2:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kimberly Williams can be reached on 305-4863.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at 703-306-0377. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

30 March 2005

  
SCOTT ROGERS  
PRIMARY EXAMINER